ATTORNEY DOCKET NUMBER: 2002834-0232 (Bacterial Delivery DIV2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Caplan, *et al.*	Examiner:	Not yet assigned
Serial No.:	Not yet assigned	Art Unit:	Not yet assigned
Filing Date:	December 4, 2003		
Title:	MICROBIAL DELIVERY SYSTEM		

CERTIFICATE OF MAILING

"Express Mail" mailing label number EV 170393633 US Date of Deposit: December 4, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service as ***"Express Mail Post Office to Address"*** service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Kathy Hart Gagnon

KATHY HART GAGNON

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, Applicant requests consideration of this Information Disclosure Statement.

Type of Statement

The present Information Disclosure Statement is:

[X] An *original* Information Disclosure Statement; or

[ ] A *supplemental* Information Disclosure Statement.

Compliance with 37 C.F.R. §1.97

The present Information Disclosure Statement is being filed:

[X] Pursuant to 37 C.F.R. §1.97(b); no fee or certification is required:

[X] Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);

[ ] Within three months of the date of entry of the national stage as set forth

in §1.491 in an international application;

[X] Before the mailing of a first Office action on the merits; or

[ ] Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

[ ] Pursuant to 37 C.F.R. §1.97(c) after the dates listed above but before the mailing date of any of a final action under §1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application; Applicant hereby *either*:

[ ] Certifies that *either*:

[ ] Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[ ] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in §1.56(c) more than three months prior to the filing of the information disclosure statement; or

[ ] Includes herewith the fee set forth in §1.17(p).

[ ] Pursuant to 37 C.F.R §1.97(d), after the mailing date of any of a final action under §1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application; Applicant hereby *both*:

[ ] Certifies that *either*:

[ ] Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[ ] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in §1.56(c) more than three months prior to the filing of the information disclosure statement; and

[ ] Includes herewith the fee set forth in §1.17(p).

Content of the Information Disclosure Statement

Applicant hereby makes of record in the above-identified application the reference(s) listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

Applicant includes copies of references as indicated below:

[ ] A copy of each cited reference not indicated with an asterisk is included;

[X] Copies of references indicated with an asterisk on the attached form PTO-1449 are not included pursuant to 37 C.F.R. §1.98(d) because they were previously provided to the United States Patent Office in an Information Disclosure Statement that complies with 37 C.F.R. §1.98(a)-(c) and was submitted in the following patent application that is relied upon in the present case for an earlier effective filing date under 35 U.S.C. §120:

Serial Number	Filing Date	Status
09/731,375	December 6, 2000	Pending

[ ] Copies of English translations of one or more non-English references are included.

Applicant hereby makes the following additional information of record in the above-identified application:

Applicant certifies that the Information Disclosure Statement *either*:

[ ] Does not contain non-English language citations;

[ ] Does contain non-English language citations, of which the following is a concise explanation:

[ ] Includes one or more translations of a non-English citation.

Remarks

The submission of this Information Disclosure Statement should not be construed as a representation that a search has been made.

The submission of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b).

The submission of this Information Disclosure Statement shall not be construed as a representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;

2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited patent(s) and publication(s) has (have) been fully considered by the Patent and Trademark Office during the examination of this application; and

3. The citations for the patent(s) and publication(s) be printed on any patent which issues from this application.

Notwithstanding any statements by Applicants, the Examiner is urged to form his or her own conclusions regarding the relevance of the cited reference(s).

Respectfully submitted,

Charles Lyon, Ph.D.
Agent for Applicant
Limited Recognition Under 37 CFR §10.9(b)

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Dated: December 4, 2003

Form PTO-1449 (REV. 8-83) U.S. Department of Commerce Patent and Trademark Office	Atty. Docket: 2002834-0232	In re Application No.: NYA
INFORMATION DISCLOSURE STATEMENT	Applicants: Caplan et al.	
(Use several sheets if necessary)	Filing Date: December 4, 2003	Group: NYA

ISSUED U. S. PATENTS

Examiners Initials	U.S. Patent No.	Applicant	Issue Date	Class	Subclass
	*3,645,852	Axen, et al.	February 29, 1972	195	68
	*3,720,760	Bennich et al.	February 7, 1984	436	51.3
	*4,171,299	Hamburger	October 16, 1979	260	112.5
	*4,338,297	Michael et al.	July 6, 1982	424	91
	*4,469,677	Michael et al.	September 4, 1984	424	91
	*4,535,010	Axen et al.	August 13, 1985	427	246
	*4,579,840	Hahn et al.	April 1, 1986	514	14
	*4,659,678	Forrest et al.	April 21, 1987	436	512
	*4,696,915	Horecker	September 29, 1987		
	*4,816,449	Hahn et al.	March 28, 1989	514	17
	*4,849,337	Calenoff et al.	July 18, 1989	435	7
	*4,900,556	Wheatley, et al.	February 13, 1990	424	450
	*5,026,545	Saint-Remy et al.	June 25, 1991		
	*5,049,390	Wojdani	September 17, 1991	424	450
	*5,091,318	Anawis et al.	February 25, 1992	436	513
	*5,169,933	Anderson et al.	December 8, 1992	531	391.3
	*5,314,991	Oka et al.	May 24, 1994	530	350
	*5,449,669	Metcalfe et al.	September 12, 1995	514	13
	*5,480,972	Avjioglu et al.	January 2, 1996	530	379
	*5,486,452	Gordon et al.	January 23, 1996	435	5
	*5,496,554	Oka et al.	March 5, 1996	424	276.1
	*5,543,144	Chang	August 6, 1996	424	133.1
	*5,547,669	Rogers et al.	August 20, 1996	424	185.1
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	*07/998,377		December 30, 1992		
	*08/158,704		November 29, 1993		
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Examiner's Initials	Serial Number	Applicant	Filing Date	Class	Subclass
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	*60/073,283		January 31, 1998		
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				Yes	No
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Examiner's Initials	Document No.	Country	Date	Translation	
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	*WO 97/24139	International	10 July 1997		
	*WO 98/43657	International	10 August 1998		
	*WO 98/39029	International	11 September 1998		
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	*WO 99/34826	International	15 July 1999		
	*WO 99/38978	International	8 May 1999		
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